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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA
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13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 vs.

17 BANC DE BINARY LTD, OREN SHABAT
18 LAURENT (f/k/a OREN SHABAT), ET
19 BINARY OPTIONS LTD., BO SYSTEMS
20 LTD. SEYCHELLES and BDB SERVICES
21 LTD. SEYCHELLES,

22 Defendants.

Case No. 2:13-cv-00993-RCJ-VCF

**[PROPOSED] ORDER GRANTING
PLAINTIFF SECURITIES AND
EXCHANGE COMMISSION'S
UNOPPOSED MOTION TO ESTABLISH A
FAIR FUND AND APPROVE THE
DISTRIBUTION OF FUNDS THROUGH A
PARALLEL ACTION**

23 This matter came before the Court upon Plaintiff Securities and Exchange Commission's (the
24 "SEC") Unopposed Motion to Establish a Fair Fund and Approve the Distribution of Funds Through
25 a Parallel Action. The Court having considered the memoranda and evidence filed by the parties, and
26 all other argument and evidence presented to it, and good cause appearing therefor:

27 IT IS HEREBY ORDERED that:

28 (1) the SEC's Motion is GRANTED;

- (2) a “fair fund” is hereby established (the “Banc de Binary – Restitution Fund”) in accordance with Section 308(a) of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7246(a);
- (3) the Banc de Binary – Restitution Fund shall consist of the \$7.1 million in disgorgement and the \$1.95 million in SEC civil monetary penalties agreed to be paid by defendants in settlement of this action and of the parallel enforcement action filed against the same defendants in this district, *Commodity Futures Trading Commission v. Banc de Binary Ltd., et al.*, Case No. 2:13-cv-00992-MMD-VCF (the “CFTC Action”), which payments, according to defendants’ Consents to Final Judgment and proposed Final Judgments filed on February 22, 2016 (Dkt. Nos. 149-154), will be made directly to the National Futures Association (“NFA”) for distribution to harmed investors;
- (4) in accordance with the proposed Consent Order for Permanent Injunction, Civil Monetary Penalty and Other Equitable Relief Against Defendants filed in the CFTC Action (the “CFTC Consent Order”) (CFTC Dkt. No. 169), the Banc de Binary – Restitution Fund shall be administered by the NFA, once it is appointed as Monitor in the CFTC Action;
- (5) to the extent that the NFA and the parties can reasonably locate them, the distribution shall be made *pro rata* to the 6614 customers on Exhibit A to the CFTC Consent Order (the “Identified Customers”), or to any additional U.S. customer who has or had a “Banc de Binary” account, as reflected on “Banc de Binary” account records, and who timely demonstrates that: he or she resided in the United States when he or she opened or traded in the account; and he or she deposited, on a net basis, more investment funds into the account than he or she withdrew out of the account during the time that the account was active;
- (6) the NFA shall be responsible for all further tax compliance and reporting obligations of the Banc de Binary – Restitution Fund and the payment of taxes, if any, will be made from the Banc de Binary – Restitution Fund;
- (7) in the event that any portion of the Banc de Binary – Restitution Fund is not distributed to injured investors, any residual amount remaining after completion of the distribution shall be paid to the U.S. Treasury; and

(8) for each year until the distribution is completed, the NFA shall provide an annual report to counsel for the parties regarding the distribution, which report shall be filed with the Court.

Dated: March 7, 2016



The Honorable Robert C. Jones
United States District Court Judge